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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Hyun-kwon Chung

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STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

EXAMINER

PRICE, NATHAN E

ART UNIT

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2194

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/686,537	Applicant(s) CHUNG ET AL.	
	Examiner NATHAN PRICE	Art Unit 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/26/2008</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 – 10 are pending.
2. This Office Action is in response to communications received 10 April 2008. Previous objections and rejections not included in this Office Action are withdrawn.

Response to Arguments

3. Applicant's arguments regarding rejections under 35 U.S.C. 101 have been fully considered but they are not persuasive. The computer-readable medium appears to store only nonfunctional descriptive material. The markup document appears to be used when reproducing the AV data, but does not appear to provide reproduction functionality. For example, Figure 6 shows that the markup document is read and the markup document defines display information, but it does not provide reproduction functionality. The control information of claim 1 is not required to include functionality recited in the dependent claims. It appears that nonfunctional descriptive material (information identifying the buffering state) satisfies the limitation.
4. Applicant argues claim 1 recites functional descriptive material. However, the MPEP defines "functional descriptive material" as including computer programs (MPEP 2106.01). There does not appear to be a computer program recited as included on the computer readable medium as required to qualify as function descriptive material.

Although the AV data, markup document, and control information can be used with or by a computer program, none of these are recited as being or including a computer program.

5. Regarding Applicant's amendment to the specification, although Applicant indicates the amendment addresses the rejection under 35 USC 101, Applicant has not specifically disavowed the disclosure that precedes the amendment. Additionally, the amendment removes carrier wave from the examples of storage media, but it is not clear that carrier wave is not disclosed as an example of a computer readable medium.

6. Applicant's arguments regarding rejections under 35 U.S.C. 102 have been fully considered but they are not persuasive. Applicant argues Sullivan fails to teach a user making a selection as claimed. However, the user selects to use the browser and what to view with the browser (p. 78 ¶ 2 – 3; p. 79 ¶ 1 – 3; Fig. 9.2). The user can control the media and browser, making the environment interactive. This interpretation appears to be consistent with the specification (¶ 6, 82).

7. Applicant's arguments, see REMARKS, filed 10 April 2008, with respect to rejections under 35 USC 103 (involving Landsman in view of Silberschatz) have been fully considered and are persuasive. The rejections under 35 USC 103 (involving Landsman in view of Silberschatz) of claims 1 – 7 have been withdrawn.

Information Disclosure Statement

8. References AD through AK on the IDS filed 26 March 2008 have been considered. Reference AL on the IDS filed 26 March 2008 has not been considered because it does not conform with 37 CFR 1.98(a)(3).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 1 – 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

10. The computer-readable medium of claim 1 appears to store only nonfunctional descriptive material. See MPEP 2106.01.

11. Claims 1 – 10 are directed to a signal directly or indirectly by claiming a medium and the Specification (§ 95) recites evidence where the computer readable medium is defined as a “wave” (such as a carrier wave). In that event, the claims are directed to a form of energy, which at present the office feels does not fall into a category of invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 2, 5, 8, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan (see Sullivan et al. on PTO-892 mailed 15 November 2007).

13. As to claim 1, Sullivan teaches a computer-readable medium usable with an apparatus comprising a buffer, the computer-readable medium having recorded thereon:

AV data (p. 75 ¶ 1);

a markup document to be preloaded into the buffer of the apparatus to enable the apparatus to reproduce the AV data in an interactive mode selected by a user of the apparatus (p. 75 ¶ 1 – 2; p. 78 ¶ 1 – 3; p. 79 ¶ 1 – 3; Fig. 9.2); and

control information to enable the apparatus to identify buffering state information of the markup document to be preloaded into the buffer of the apparatus, the buffering state information being used by the apparatus in reproducing the AV data in the interactive mode selected by the user (p. 75 ¶ 1 – 2; p. 78 ¶ 1 – 3; p. 79 ¶ 1 – 3; Fig. 9.2; p. 95 ¶ 1 – p. 96 ¶ 4; p. 97 last ¶; p. 177 last ¶; p. 33 ¶ 2; p. 45 ¶ 2).

14. As to claim 2, Sullivan teaches the control information includes an application program interface (API) that generates a report signal used to identify a buffering state of the markup document (p. 95 ¶ 1 – p. 96 ¶ 4).

15. As to claim 5, Sullivan teaches the control information includes an API that generates a fetch signal used to issue a command to preload the markup document (p. 95 ¶ 1 – p. 96 ¶ 4; p. 97 ¶ 3).

16. As to claim 8, Sullivan teaches the AV data is selectable by the user to be viewed by the user while the AV data is reproduced in the interactive mode selected by the user (p. 78 ¶ 2 – 3; p. 79 ¶ 1 – 3; Fig. 9.2).

17. As to claim 9, Sullivan teaches the interactive mode selected by the user is an interactive mode in which the user views the AV data (p. 78 ¶ 2 – 3; p. 79 ¶ 1 – 3; Fig. 9.2).

18. As to claim 10, Sullivan teaches:

the interactive mode is a mode in which the AV data is displayed in a display window defined by the markup document (p. 78 ¶ 2 – 3; p. 79 ¶ 1 – 3; Fig. 9.2);

the apparatus is selectively operable in the interactive mode in which the AV data is displayed in the display window defined by the markup document, and a non-interactive video mode in which the AV data is displayed in the same manner as AV

Art Unit: 2195

data recorded on a standard DVD (p. 77 ¶ 1 – 3; p. 78 ¶ 2 – 3; p. 79 ¶ 1 – 3; Fig. 9.1; Fig. 9.2); and

the user of the apparatus selects between the interactive mode and the non-interactive video mode (p. 77 ¶ 1 – 3; p. 78 ¶ 2 – 3; p. 79 ¶ 1 – 3; Fig. 9.1; Fig. 9.2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 3, 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan. See rejection of claims 1 and 5 regarding limitations of parent claims.

20. As to claim 3, Sullivan fails to specifically teach the API as claimed. However, Sullivan teaches identifying media sources using URLs and tracking the download progress of data (p. 95 ¶1 – 4; p. 96 ¶5; Fig. 9.2), which renders obvious the control information includes an [obj].isCached(URL, resType) API that generates a report signal, where the URL is a parameter indicating a file path of the markup document and the resType is a parameter indicating an attribute of the markup document.

21. As to claim 4, Sullivan fails to specifically teach the API as claimed. However, Sullivan teaches identifying media sources using URLs and tracking the download progress of data (p. 95 ¶1 – p. 96 ¶4), which renders obvious the control information includes an API that returns a value of 0 in response to preloading of the markup document being successful, a value of 1 in response to the preloading of the markup document being failed, and a value of 2 in response to the preloading of the markup document still being conducted.

22. As to claim 6, Sullivan fails to specifically teach the API as claimed. However, Sullivan teaches identifying media sources using URLs and tracking the download progress of data (p. 95 ¶1 – p. 96 ¶4; p. 97 ¶3), which renders obvious the API returns a response indicating whether the command to preload the markup document has been successfully transmitted using the fetch signal.

23. As to claim 7, Sullivan fails to specifically teach the API as claimed. However, Sullivan teaches identifying media sources using URLs and tracking the download progress of data (p. 95 ¶1 – p. 96 ¶4; p. 97 ¶3), which renders obvious the control information includes an API that is used to determine whether preloading of the markup document is completed.

Conclusion

Art Unit: 2195

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHAN PRICE whose telephone number is (571)272-4196. The examiner can normally be reached on 6:00am - 2:30pm, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2195

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/
Supervisory Patent Examiner, Art Unit 2195

NP